

# Immigration and Libertarianism: Open Borders versus Directionalism

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## Abstract

*To determine the correct libertarian approach to immigration, a thought experiment posits a minimal-state libertarian UK and then the introduction of several relevant anti-libertarian policies (with their increasingly disastrous effects). It is argued that the reverse of these imagined policies, as far as is politically possible, would be the correct way forward. Several open-border texts are then criticised in light of this and for other errors, in particular for overlooking the likely huge scale of immigration as indicated by a Gallup survey. The conclusion outlines three broad options on immigration and suggests that directionally-libertarian policies are both more libertarian and practical than open borders.*

## 1) Introduction

There has long been a debate in the libertarian literature as to the correct policy on immigration. This essay does not attempt a comprehensive account and evaluation of all the different arguments in that vast debate. Neither is this intended to be a general explanation and defence of libertarianism. This essay primarily compares directionally-libertarian policies with the open-borders option. It does this by first assuming, *arguendo*, a functional minimal-state UK and then how this might relevantly be undermined. The inference is then made and defended that the reverse of this, as far as is practical, would be the correct libertarian policy. Next, several open-border texts are responded to in light of this argument and for other errors. This appears to be sufficient to constitute a *prima facie* refutation of open borders and a defence of directionally-libertarian policies.

## 2) Working backwards from an imagined solution

Imagine that the UK has become a rapidly-developing, minimal-state, libertarian country. This includes having the airports, ports, and all of the roads being privately owned, maintained, operated, and policed. Some roads have fairly indiscriminating access, especially where they have retail outlets that want to attract custom. Many roads are gated and guarded because the owners<sup>1</sup> don't want the nuisance or security-risk of people coming in uninvited. Thoroughfares have been negotiated, or court-imposed on liberty-theory<sup>2</sup> principles, to ensure access around the country.

Many people around the world want to move to libertarian-UK. Some of these people are invited to come to specific places in order to work. Other people meet the residency requirements to move into certain areas. And some come in as sponsored guests or tourists

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<sup>1</sup> These will likely be the people living nearby with some procedure for deciding such things, or some company looking to offer what its main customers prefer.

<sup>2</sup> On the abstract theory of libertarian liberty and how it implies property rules, see this one-page outline: <https://philpapers.org/rec/LESTAL>. In more detail see the relevant chapters or indexes in Lester [2000] 2012; [2011] 2016); 2014.

with personal or business guarantors that are liable for any necessary security costs or fines if any leave-dates are exceeded. There is a wide variety of similar options.

However, there are many more people who would like to move to libertarian-UK but they haven't been invited. Consequently, there are variously-funded<sup>3</sup> private barriers and security measures to stop them. These are at airports, ports, along the coast, and as elaborate as seems desirable. A relatively small number of people do still manage to sneak in by some means; but it's not worth increasing airport and border security beyond a certain economic point. In any case, even after gaining entry, those people find that they still cannot go or live just anywhere they choose: there are private gates, barriers, and security systems across the entire country. Consequently, they either tend to be caught eventually (and fined, or put to work in prison to pay the fine, before being expelled) or they manage to become unobtrusive, productive members of the areas to which they have gained access. Peace, security, and ever-increasing abundance pervade the land. According to libertarians, at least, this is a model society—if not yet an anarchy—that the rest of the world can observe and, if they wish, emulate.

Then something unforeseen happens. The new government decides to compulsorily purchase all of the roads, ports, airports, and coastal security in order, says the prime minister, to “hold and maintain them in trust for the citizenry”. He assures us that a “very modest and temporary increase in overall taxation” (currently at around 5% of GNP) is all that is initially needed to cover their purchase then upkeep and operation at current standards. He confidently predicts that there will be “economies of scale due to having sole public ownership” (i.e., a state monopoly); hence “overall taxes will soon go down to lower than before”. Many people have their doubts that the free market has missed such alleged “economies of scale”, but it doesn't seem worth most people's while to campaign against this and they think that just maybe they will save some money eventually.

After a year or two overall taxation has risen beyond the “very modest and temporary increase”, and that still doesn't appear to be enough (quelle surprise!). Rather than try to raise taxes still further, the prime minister announces that “in the interests of economy and the free movement of UK residents” he will be removing all of the gates and guards from UK roads. Many people are resentful of this. Some of them observe that such an argument could be used to remove people's front doors so that anyone might enter their homes. There ensues a significant increase in various crimes now that no UK resident can be denied access to any street in the country—with the mysterious exception of Downing Street, which remains gated and policed.

After another year or two the prime minister announces that “in the interests of economy and freedom of migration” he is removing all relevant border security from around the country, and its ports, and airports. In the following months many millions of people from around the world flood into the country. (According to Gallup data,<sup>4</sup> around 45 million people would come to the UK as a first choice now; presumably that number would increase significantly were the UK even richer and freer, thanks to libertarian policies, and the only desirable country with an open border). As economics implies, people inevitably keep on arriving up to the point that the UK is no better—all things considered by them—than the places from whence they come; and many of those places are awful for a variety of reasons. All of the country's parks and squares have become shanty towns. All kinds of crime and other social problems are rife and increasing (far exceeding any problems that have been reported in Germany and Sweden, for instance, with relatively tiny recent immigration increases). Many native people have left the country and more are preparing to leave.

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<sup>3</sup> It would be a digression to discuss the different possible ways of paying for these.

<sup>4</sup> Clifton 2012.

Someone shot dead the prime minister, and the remaining native population celebrated. But there is no going back.

What are we to make of this thought-experiment from a libertarian viewpoint? Everything the imagined government has done has been a move away from a libertarian society. This appears to suggest that the full libertarian policy now, in our real not-so-bad situation, should be to do the reverse of this thought-experiment and privatise everything among the existing population. But clearly that is not yet politically possible. Currently, all the roads, immigration control, etc., are in effect held in trust (and maintained and operated at taxpayer expense) by the state on behalf of the existing citizens; or, at least, that is the only reasonable excuse the state could offer for its monopoly of these things. And, as opinion polls consistently show, the overwhelming majority of the existing citizenry want controlled immigration.<sup>5</sup> Therefore, on no libertarian-account should the state do the very opposite of this and open the borders. It's hard to see how allowing the country to fall to third-world standards—as opening the borders would ineluctably, eventually, cause—could have good long-run consequences even for most of the new immigrants or the rest of the world. This is especially so because there is the very obvious libertarian alternative of practicing full free trade with the poor regions of the world and thereby raising their living standards to something that would relatively soon approach that of wealthier countries, and maybe even exceed it if they were themselves to become more libertarian than we currently are—which is not a very high bar to reach.

All of this might seem fairly obvious to many libertarians. However, some libertarian texts argue that the state should immediately have open borders (no immigration restrictions) for libertarian and humanitarian reasons. A variety of criticisms of open borders are dealt with in these texts. And some of the given answers are to varying degrees sound. However, they don't deal adequately—if at all—with the disaster scenario explained here, and they often commit significant other errors. A few points and conclusions from some of these texts will now be criticised.

### **3) Responses to some Open-Border Advocacies**

All of the essays or authors cited here might have been dealt with at considerably greater length, even up to an exclusive essay. But that would have been at the cost of a more comprehensive approach, and in any case *verbum sapienti satis est*.

*Block 1998*

When there is virgin territory, there is no legitimate reason for immigrants (or domestic citizens) to be prevented from bringing it into fruitful production. (174)

The “domestic citizens” would already have taken over this land had they been, as they should, allowed to do so. Instead, they have been prevented—to their ever-compounding loss—and this has also been enforced at their own expense through taxation. This appears to be sufficient to give them a prior, restitutorial, libertarian claim to be allowed to take it (issuing tradable shares is one possible, if imperfect, solution). By small-scale analogy, suppose the state had declared its ownership of the last third of everyone's gardens—where people have them—and mandated that these be left untouched for “environmental reasons”. The owners of the rest of the gardens would otherwise have taken them, and they have been greatly inconvenienced by not being allowed to do so. Hence, they should now have first

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<sup>5</sup> See, for instance, Migration Watch UK 2014.

claim to them. It is not libertarian to allow what are, predominantly, non-victims in either case to engage in a sort of land rush.

... either migration is totally legitimate, in which case there should be no interferences with it whatsoever, or it is a violation of the non-aggression axiom, in which case it should be banned, fully. I have argued in this paper that the former position is the only correct one. (185)

Immigration, in particular, is neither “*totally* legitimate” (in libertarian terms) nor *totally* a “violation”. In a fully libertarian society, there would be no state borders and so no overall immigration control as such; there would be only private-owner control of entry. But when we have the state owning the roads, ‘national’ parks, etc., supposedly on behalf of the existing population—as we currently do—then a compromise is all that is possible in practice. And given the utter disaster of open borders for the existing population, having some restrictions on immigration is more libertarian—however imperfect this is compared to a fully libertarian ideal.

*Block and Callahan 2003*

the profit motive, if nothing else, will lead to the mass invitation of foreigners to our shores. (67)

“Mass invitation of foreigners” into private property alone is not the problem. The problem is a devastating deluge of uninvited foreigners also coming into territory that is in effect held in trust for the existing population. If there are ‘open borders’, then no invitations are required. People can simply escape a less-desirable country by entering a known much better one. In the UK some immigrants do start as beggars, but beggars in a richer country.

Hoppe maintains that in the present context the U.S. government is in effect a manager for the private property owners who live within the borders of the country. We maintain, in contrast, that the state cannot properly take on any such role. (67)

Correct, it cannot do it “properly”, i.e., efficiently and according to libertarian principles. But it can do a better job or a worse job, and allowing unlimited immigration is close to doing the worst possible job.

States Higgs in this regard: “[...] If the state cannot legitimately create borders in the first place, because its very existence is illegitimate, then it manifestly cannot promulgate just rules with regard to how open or closed any such borders will be.” (67-68)

Correct, the state cannot provide *fully* “just rules”. But open borders are even more unjust than restrictions that prevent a libertarian and welfare disaster.

*Gregory and Block 2007*

there is no way for government immigration controls to keep out the “uninvited,” let in the “invited,” or even determine who would fall into each category. The state simply cannot mimic the market, and directing its coercive mechanism in such an

attempt will prove ineffective in achieving desired goals, wasteful of wealth created in the private sector, and destructive to liberty. (25)

All completely true. But it misses the big picture, which is one of utter libertarian and welfare disaster. The state can, and currently does, protect us from that.

Inevitably, of course, immigration controls violate the property rights of those inside, as well as outside, [...] who wish to exchange with each other, and who can indeed maintain the costs of the immigrant's stay. (38)

Then sponsorship is one more-libertarian way to deal with that. "Inevitably, of course, [having no] immigration controls violate [what ought to be] the property rights of those inside"—up to the point of national disaster (i.e., a disaster for the people that comprise the actual nation, not necessarily a disaster for the state).

*Caplan 2012*

Proponents of immigration restrictions have to show why, moral appearances notwithstanding, immigration restrictions are morally justified. (20)

As all arguments rest on assumptions, and thereby amount to assumptions, there are no supporting justifications.<sup>6</sup> However, immigration restrictions here appear to be moral because they are more libertarian and avoid a national disaster. Therefore, "proponents of [abolishing] immigration restrictions have to show why, moral appearances notwithstanding, immigration restrictions are [not] morally [defensible]".

Most Americans benefit from immigration, and the losers don't lose much. (20)

Because the unlimited deluge of immigrants is not allowed.

Immigration restrictions are not necessary to protect American culture. ... [or] to protect American liberty. (21)

As long as very limited numbers can immigrate.

Even if all these empirical claims are wrong, though, immigration restrictions would remain morally impermissible. Why? Because there are cheaper and more humane solutions for each and every complaint. If immigrants hurt American workers, we can charge immigrants higher taxes or admission fees, and use the revenue to compensate the losers. (21)

Any "admission fees" would be prior to admission and thereby a form of immigration restriction.

If immigrants hurt American culture, we can impose tests of English fluency and cultural literacy. (21)

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<sup>6</sup> For explanations of critical rationalist epistemology see, for instance, Popper [1963] 1978 and Miller 1994.

Any prior “tests of English fluency and cultural literacy” would be a form of immigration restriction.

Whatever your complaint happens to be, immigration restrictions are a needlessly draconian remedy. (21)

All of this simply overlooks the big picture. Assuming that there are no immigration restrictions, then all policies—libertarian and otherwise—would simply be swept away by the tide of incoming people. The same Gallup survey as cited earlier shows around 150 million foreigners had the U.S. as their *first* preference for migration *now* (not that they might want to migrate to the U.S. at some future time if the conditions sufficiently improve in some way). And even more would initially want to come if the U.S. *alone* opened its borders. However, they would only keep arriving until the U.S. were no better, all things considered by them, than where they were coming from.<sup>7</sup> And that might happen well before all of them were to arrive.<sup>8</sup>

*Huemer 2010*

In a late-added footnote, Huemer 2010 notices a similar earlier Gallup survey and merely observes (without citing any evidence): “most of these individuals have not made an observable effort to migrate to the U.S.”.<sup>9</sup> When there are not open borders that is probably because most of them would rightly regard this as almost certainly a wasted effort. By analogy, many film stars’ fans might like to move in with their favourite star but “most of these individuals have not made an observable effort” (and some of the few that have were arrested). However, in light of the possibility of a disastrous influx, Huemer 2010 does “grant

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<sup>7</sup> If immigration to the U.S. would continue until the U.S. is no better (all things considered *by the potential immigrants*) than the places from whence the immigrants come, then why doesn’t migration between states within the U.S. continue until all the states are no better (all things considered *by the potential migrants*) than the states from whence they come? The answer is simply that it does. The question is failing to understand the subjective utility-evaluation of the potential migrants. If someone in a relatively poor state decided that—on balance given his preferences—he would be better off moving to New York, then he would move to New York. There is some tendency for the ‘objective’ economic circumstances to be damaged in this way. But the U.S. states are not so different, given the various preferences of its many inhabitants, that a dangerously large number of people are likely suddenly to choose to go to what might appear to be a ‘better’ state as judged by ‘objective’ economic standards. However, as the Gallup survey shows, that situation is completely different when the whole world is considered. There is a vast pent-up demand to move to the U.S. that would do serious damage to the U.S. as measured by the preferences of its current inhabitants, and by ‘objective’ standards too.

<sup>8</sup> Vast numbers seem likely to arrive in a matter of months. When people have the opportunity to escape a poverty-stricken and dangerous country for a rich and safe one, then most of them are unlikely to wait for years. And this could not all be at their own expense, as they would be making use of all the ‘public resources’ to which the existing population have a prior claim: their taxes have paid for their production and upkeep and they would have already owned them but for state monopolisation.

<sup>9</sup> Quotations are from an online version, which does not have the journal pagination: <http://www.owl232.net/papers/immigration.htm>

that it may be wise to move only gradually towards open borders”. But why not, instead, move quickly to giving the citizens the land they ought to own so that no state borders will be necessary?

Huemer 2010 summarises its arguments in the conclusion:

1. Individuals have a *prima facie* right to immigrate (that is, a right not to be prevented from immigrating).

On the contrary, in a libertarian world people would need to be invited in by property-owners. And without the state all so-called ‘public property’ would have been owned by the current citizens. Therefore, saying there is a *prima facie* right to come into a country sounds relevantly and sufficiently as mistaken as saying that people have a *prima facie* right to enter someone else’s land or even house without being invited in.<sup>10</sup>

This is because:

- a. Individuals have a *prima facie* right to be free from harmful coercion.

This cannot be correct: it is sometimes necessary to use “harmful coercion” against violators of liberty (i.e., the violators are *reactively* made worse off by the use of force or the threat of force). What individuals “have a *prima facie* right to be free from” is *proactive* interference with their person or libertarian property.<sup>11</sup>

- b. Immigration restrictions are harmful and coercive.

One is not *proactively* interfered with by being denied access to things that other people own, or should rightfully own, however much one wants or needs them. And immigration controls are (by general intention, at least, and however imperfectly) *reactively* coercive. Such reactive coercion is in principle defensive and to that extent libertarian.

The argument for free immigration ought to be persuasive to nearly everyone, regardless of ideological orientation.

The argument ought not to be persuasive even to most libertarians; and not to any welfare consequentialists either.<sup>12</sup>

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<sup>10</sup> Of course, as argued, it would solve the problem if there were first to be full libertarian privatisation of all state-owned assets among the existing population. But Huemer 2010 is not advocating that. It is advocating that the borders be opened without this happening.

<sup>11</sup> When the country has not first been fully privatised there will always be some proactive interference: using the property that the existing population would otherwise, and should, own but which the government has monopolised. Even invited immigrants will cause negative externalities if ‘public property’ exists.

<sup>12</sup> It is necessary to take seriously the Gallup survey and the vast amount of illegal immigration despite huge deterrents, including the very real risk of death in many cases. And one must not conflate the libertarian privatise-among-the-citizens solution with opening the borders in the current situation. In principle, the free market can sort out any problems without serious negative externalities. But there can be nothing like a free market while the state owns almost all of the roads, parks, etc., that the existing populace ought to own.

#### 4. Conclusion

Consider three broad options on the issue of immigration. 1) Privatisise everything along libertarian lines among the existing national citizens (who would already own it all, but for the state), and then let liberty and free markets sort things out: this is the only fully libertarian and economically efficient option; but it's not going to happen before most intellectuals become libertarians. 2) Open the borders and let unlimited numbers of people enter: this would be a libertarian and welfare disaster; but it is so obviously awful (except, apparently, to some well-known libertarians) that it's never going to happen. 3) Have state controls on immigration: this is highly imperfect as regards liberty or welfare; but at least it avoids a national disaster and it can slowly be moved in a more-libertarian direction. And that is what libertarians should be promoting: specific, practical, immigration policies that increase people's liberty and thereby also their welfare.<sup>13, 14</sup>

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<sup>13</sup> Quoted by Lee Waaks (personal communication, 2nd October 2019) with responses. Stephen Davies: "Fundamentally there is no meaningful difference between free movement within geopolitical borders (a hard fight for 19th century liberals) and free movement that goes across geopolitical borders." In terms of abstract economic theory, they may be the same thing. But in terms of practical reality, the introduction of the latter would be a disaster. In any case, it would be more apposite to observe that, to be consistent, this essay should hold that the former is a similar problem (albeit on a much lesser scale) until all the 'public property' is allocated to its just private owners within the geopolitical borders. And that is true. It is simply not the crux of the debate here, and so was not mentioned. "You can only make the argument that there is if you make the political community something that exists above and beyond the autonomous individual[s] and has prior claims upon them." It is the state that "exists above and beyond the autonomous individual[s]". However, by libertarian rights, it has no "prior claims upon them". Rather, they have a claim on it to the property that it has monopolised by proactive coercion.

<sup>14</sup> Comments from Mark Brady and David McDonagh have improved this essay. No blame can be attached to them for any faults.



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